

Remarks

Claims 1-41 have been cancelled and new claims 42-82 have been added.

The present invention is directed to a game that can be played by one or more players while sitting at a table or bar. The game comprises a scoring structure that mimics a basketball goal or a football goal and that is adapted to be removably secured to the upper portion of a bottle. In order to play the game, the scoring structure is secured to an available empty or full bottle and the players attempt to direct a ball or other object at the scoring structure in order to score points. In the case of a basketball goal, a shot ring can be used to define an area wherein the ball must appear before entering the basket rim. In addition, a ball deflector can be secured to the lower portion of the bottle below the basket rim to deflect balls passing through the rim back into play. A shot ramp or kicking tee can also be used respectively to assist in launching the ball toward the scoring structures.

The benefit of this game is that the scoring structure can be removed from the bottle after play for use on a different occasion. A magnet may be included on the scoring structure to enable the scoring structure to be stored on a refrigerator or other metallic surface when not in use. The game uses bottles that are readily available to the players, and can use other readily available materials for other components of the game such as rubber bands, paper clips, drink coasters and straws.

New claims 42-55 and 68-73 are generally directed to a game comprising a scoring structure configured and adapted to be removably coupled to a bottle for play, wherein the scoring structure is a basketball goal and/or a football goal. New claims 56-67 are generally directed to a game comprising a bottle and a scoring structure removably coupled to the bottle

for play, wherein the scoring structure is a basketball goal and/or a football goal. New claims 75-82 are generally directed to a method of making a game comprising positioning a bottle in a vertical up-right position and coupling a scoring structure to an upper portion of the bottle wherein the scoring structure is a basketball goal and/or a football goal.

Rejections Under 35 U.S.C. § 112

The Examiner rejected original claims 2-41 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is believed that the new claims overcome this rejection.

Rejection Under 35 U.S.C. § 102

The Examiner rejected original claim 1 under 35 U.S.C. 102(b) as being anticipated by Ruderman (U.S. 2,736,558). Applicant respectfully asserts that the new claims are novel over Ruderman.

Ruderman does not disclose a scoring structure adapted to be removably coupled with an upper portion of a bottle, and does not disclose the use of a basketball or football goal in any fashion.

Rejections Under 35 U.S.C. § 103

The Examiner rejected original claims 1-4 under 35 U.S.C § 103(a) as being unpatentable over Candor et al (U.S. 3,854,879) in view of Zerpa (U.S.2,535,474). Applicant respectfully asserts that the new claims are non-obvious in view of these references.

The Patent Office's burden of establishing a prima facie case of obviousness is not met unless "the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." In re Bell, 26 U.S.P.Q. 2d 1529, 1531

(Fed. Cir. 1993)(quoting In re Rinehart, 189 U.S.P.Q. 143,147 (C.C.P.A. 1976)). In this case, Applicant respectfully submits that a prima facie case of obviousness for rejecting these claims has not been established because the cited references clearly do not disclose or suggest Applicant's claimed invention.

Candor discloses a ball tee that may be secured to a bottle. This ball tee is not a scoring structure, but is instead a structure to support a ball to enable a user to hit the ball off the tee. Candor also does not suggest applying a basketball or football goal to a bottle.

Zerpa discloses a game apparatus constructed to simulate a bottle with a rod mounted to simulate a flow from the bottle. Col. 1, lines 7-15 and 20-31. A series of elements are positioned on the rod and may be rotated to various positions to yield a desired result (such as a particular arrangement of numerals on the exposed front face of the elements). Col. 1 line 42- Col. 2 line 8. Zerpa does not disclose a scoring structure as that term is used in the present claims, namely a structure through which a ball or other object may pass in order to score points. Furthermore, Zerpa does not in any way suggest applying a basketball or football goal to a bottle.

Insofar as neither Candor nor Zerpa disclose, suggest or teach the use of a scoring structure adapted to fit on a bottle, no prima facie case of obviousness has been established.

The Examiner rejected the remaining original claims under 35 U.S.C § 103(a) as being unpatentable over the primary references of Candor et al (U.S. 3,854,879) and Zerpa (U.S.2,535,474) in view of Williams (U.S. 2,889,149), Hodges (U.S. 4,025,074), Collins (U.S. 4,202,543), Kemp (6,070,879), Nieland (U.S. 3,675,922), Klaus (U.S. 1,661,292), Franklin (U.S. D321,736). It is respectfully submitted that the new claims are non-obvious over these references.

As discussed above, the primary references of Candor and Zerpa do not suggest or teach the use of a scoring structure through which a ball or object may pass to score points attached to a bottle. The secondary prior art references disclose various basketball or football goals positioned on the ground, the floor or other horizontal surfaces. These goals include a vertically extending structure to position the basket or the uprights above the surface for play. None of these references suggest positioning a basketball or football goal on a bottle for play.

The present claims are limited to a scoring structure that is configured and adapted to be removably coupled with the upper portion of a bottle, wherein the playing structure is a basketball goal or a football goal. There simply is no suggestion or teaching in the prior art for such a scoring structure, and in fact, the prior art teaches against such a structure since all of the prior art devices are configured to be secured to the ground or other flat horizontal surface.

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In view of the foregoing amendments and remarks, it is respectfully submitted that the claims are in condition for allowance and eventual issuance, and such action is respectfully requested. The Examiner is invited to contact the undersigned attorney at the number listed below with questions or comments that need be addressed in order to obtain allowance.

Acknowledgment of receipt is respectfully requested.

Respectfully submitted,

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